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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,744	01/26/2004	David P. Rogers	51094/GSL/E87	8756
23363	7590	02/08/2006	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			EVANS, FANNIE L	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	
			2877	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/764,744

Applicant(s)

ROGERS, DAVID P.

Examiner

F. L. Evans

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 8-10 and 12 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5-7, 11, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>0104, 0704, 1105</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *The Information Disclosure Statements*

The prior art cited in the information disclosure statements filed on January 26, 2004, July 20, 2004 and November 21, 2005 has been considered.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 8-10 and 12 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Hussey et al (WO 01/84901), cited by applicant.

Hussey et al disclose a test module for optically measuring color and intensity of light emitted from light emitting devices (lines 29-32 on page 8) comprising at least one sensor (11) having photodetectors (25 and lines 30-34 on page 10) to filter color portions of the light from the light-emitting devices (5), the sensor producing a sensor signal; and electronics (12) for receiving and conditioning the sensor signal to produce wavelength and intensity output signals. Fiber optic cables (10) are positioned between the light-emitting devices and the sensor. Applicant's attention is directed to Hussey et al in its entirety with particular attention directed to lines 27-32 on page 8, lines 1-7 and 30-34 on page 10, lines 31-34 on page 12 and lines 1-10 on page 13. The test module of claims 1, 4, 8-10 and 12 is disclosed by Hussey et al.

### *Allowable Subject Matter*

Claims 15-19 are allowed over the prior art of record.

Claims 2, 3, 5-7, 11, 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and

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any intervening claims.

As to independent claim 15, the prior art of record, taken alone or in combination, fails to disclose or render obvious a method to test color and intensity of a light emitting device comprising the steps of generating an analog wavelength value linearly scaled to the visible spectrum; generating an intensity value linearly representing luminous intensity; and reading the wavelength value and the intensity value and comparing the values against expected values, in combination with the rest of the limitations of the claim.

As to dependent claims 2, 3, 5-7, 11, 13 and 14, the prior art of record, taken alone or in combination, fails to disclose or render obvious a test module comprising the features set forth in the body thereof, in combination with the rest of the limitations set forth in the claims from which they depend.

*Fax/Telephone Numbers*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**F. L. EVANS**  
**PRIMARY EXAMINER**  
**ART UNIT 2877**

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February 4, 2006